

**MINUTES**  
**MICHIGAN STATE TRANSPORTATION COMMISSION MEETING**  
**January 29, 2004**  
**Lansing, Michigan**

Meeting noticed in accordance with Open Meetings Act, Public Act 267 of 1976.

Present:                Ted Wahby, Chairman  
                             Betty Jean Awrey, Vice Chairwoman  
                             Lowell Jackson, Commissioner  
                             John Garside, Commissioner  
                             C. Robert Baillod, Commissioner  
                             Robert Bender, Commissioner

Also Present:        Kirk Steudle, Chief Deputy Director  
                             Patricia A. Lockwood, Commission Advisor  
                             Marneta Griffin, Executive Assistant  
                             Jerry Jones, Commission Auditor  
                             Patrick Isom, Assistant Attorney General  
                             Leon Hank, Chief Administrative Officer  
                             Larry Tibbits, Chief Operations Officer  
                             Myron Frierson, Bureau of Finance and Administration  
                             John Friend, Bureau of Highway Delivery  
                             Polly Kent, Policy Administrator  
                             Rob Abent, Multi-Modal Transportation  
                             Jackie Shinn, Economic Development  
                             Carmine Palombo, Transportation Asset Management  
                             Susan Mortel, Transportation Planning  
                             John Polasek, Highway Development

Excused:             Gloria J. Jeff, Director

A list of those people who attended the meeting is attached to the official minutes.

Chairman Wahby called the meeting to order at 9:10 a.m. in the Bureau of Aeronautics Auditorium in Lansing, Michigan.

Chairman Wahby announced that Director Jeff will not be present due to illness. Mr. Kirk Steudle will fill in for her.

**I.        COMMISSION BUSINESS**

Commission Minutes

Chairman entertained a motion for approval of the minutes of the State Transportation Commission Workshop of November 19, 2003.

Moved by Commissioner Awrey, with support from Commissioner Garside, to approve the minutes of the Commission Workshop of November 19, 2003. MOTION CARRIED.

Chairman entertained a motion for approval of the minutes of the State Transportation Commission meeting of November 20, 2003.

Moved by Commissioner Awrey, with support from Commissioner Jackson, to approve the minutes of the Commission meeting of November 20, 2003. MOTION CARRIED.

Chairman entertained a motion for approval of the minutes of the State Transportation Commission Workshop of December 11, 2003.

Moved by Commissioner Garside, with support from Commissioner Awrey, to approve the minutes of the Commission Workshop of December 11, 2003. MOTION CARRIED.

## II. **RESOLUTIONS**

### Resolution to Authorize the Execution and Delivery of Interest Rate Exchange Agreement - Myron Frierson

Mr. Frierson indicated that this resolution gives the department authorization to look for market opportunities to lock in on a fixed interest rate for our variable rate GARVEE bonds. A previous resolution was approved in July 2003, but was not exercised and, therefore, expired on December 31, 2003. The department is asking for authority again, if market conditions warrant it. This authority would last until December 31, 2004. We are currently paying about .93 percent on these notes. The department is asking for approval of this resolution.

Commissioner Jackson asked what they would be able to lock in at.

Mr. Frierson responded that the resolution will allow us to lock in up to 3 years, maximum 2.5%, but it depends on the market rates and what the trends are. So far we have averaged less than 1.3% interest over the life of the notes; the time is not right at the moment to lock in.

Commissioner Baillod asked what kind of term they could get for 2.5% if they chose to lock now.

Mr. Frierson restated that the department is asking for authorization UP TO 2.5%; they wouldn't necessarily jump at that rate now.

Commissioner Baillod asked, hypothetically, what kind of term could they get?

Mr. Frierson stated that the authorization would allow them to go up to a maximum of 3 years. What the department would look at is if the trend for interest rates begins to increase, and they can lock in at 20 or 30 basis points (or a fraction of a percent) above what they are paying now, it may be advantageous for the department to do that. It is a risk assessment they will have to evaluate. They have options in terms of the \$600 million they have in the notes; they don't necessarily have to do all of them.

Commissioner Baillod asked what interest rate they could lock in at currently, if they wanted to do a 3 year term.

Mr. Frierson stated that he did not readily have that information, but could find out and get back to him. He stated that it would definitely be over the .93% they are presently paying.

Commissioner Baillod asked if it would be 2%.

Mr. Frierson responded that he would not want to speculate on that at this point.

Commissioner Jackson asked about the process by which the decision is made.

Mr. Frierson stated that the decision making process involves a highly respected financial advisor, bond council, and treasury.

Chairman Wahby asked for other questions. None were forthcoming, therefore he asked Mr. Frierson about the second resolution.

Resolution for the Issuance and Sale of State of Michigan State Trunkline Fund Refunding Bonds, Series 2004 - Myron Frierson

This resolution gives the department authorization to pursue refunding opportunities if they present themselves in the upcoming year for existing long-term debt. They would like to do advance refunding. MDOT has a history of aggressively trying to manage their debt load in terms of interest rates. This would give similar authority, to what was granted in July 2003, to refund State Trunkline Fund bonds where sufficient cost savings would be realized. This previous authority was not exercised and, therefore, expired December 31, 2003. It now appears that market conditions are changing and an STF refunding may be warranted. In order for us to pursue refunding, we have to realize a minimum of a 3% net present value savings. Market conditions last year did not present that. The department is asking for approval of this resolution.

Chairman Wahby asked if the department would come back to the Commission for further approval on these issues once the resolutions are passed.

Mr. Frierson stated that we would not, because it was an issue of timing.

Commissioner Garside asked if they Commission would be advised upon any refunding.

Mr. Frierson responded that they would.

Commissioner Baillod asked if any advance refunding has been done.

Mr. Frierson stated that none have been done since last July (2003), because the market conditions did not present themselves.

Commissioner Baillod asked if the department has ever done any refunding.

Mr. Frierson stated that they have done quite a few.

Chairman Wahby entertained a motion to approve the resolution to authorize the execution and delivery of interest rate exchange agreement. Motion was made by Commissioner Jackson, supported by Commissioner Bender to approve the resolution. Ms. Lockwood called the roll: all answers were affirmative. Motion carried on a unanimous roll call vote.

Chairman Wahby entertained a motion to approve the resolution to authorize the Issuance and Sale of State of Michigan State Trunkline Fund Refunding Bonds, Series 2004. Motion was made by Commissioner Garside, supported by Commissioner Baillod to approve the resolution. Ms. Lockwood called the roll: all answers were affirmative. Motion carried on a unanimous roll call vote.

#### Public Comment

Ms. Daphne Reznik, representing the office of Senator Nancy Cassis, spoke briefly regarding deference of the Wixom/Beck Interchange Project along the I-96 corridor. Ms. Reznik read a statement prepared by Senator Cassis who is opposed to this deferral. She also provided a packet of information to each Commissioner, which includes articles describing the critical nature of keeping this project on the 2004-08 Five Year Plan, along with letters from the City of Wixom (includes a Resolution passed January 27, 2004), Detroit Catholic Central High School, Traffic Improvement Association, Jonathan Brateman Properties, Inc.. Ms. Reznik indicated that these letters were in addition to the other correspondence sent by Senator Laura Toy and Mayor Louis Csordas of Novi. Senator Cassis urged the Commission to reject MDOT's Five Year Plan, which she feels abandons a commitment to complete both Beck and Wixom as one project.

Chairman Wahby asked if there were any questions; none were forthcoming.

The Chair called on Mr. Kirk Steudle for the Director's Report.

III. **DIRECTOR'S REPORT – KIRK STEUDLE FOR DIRECTOR GLORIA J. JEFF**

Transportation Summit 2003

Mr. Steudle gave a brief overview of the Summit which was held December 3-4, 2003 in Lansing. Vision: Michigan will lead the 21<sup>st</sup> century transportation revolution as it led innovation in the 20<sup>th</sup> century. We will move people and goods with a safe, integrated, and efficient transportation system that embraces all modes, is equitably and adequately funded, and socially and environmentally responsible. Michigan's transportation community will work together to ensure that resources are in place to deliver the system. Over 500 individuals from various industries and organizations across the state were in attendance. There were 9 key issue areas: safety; commerce and trade; communication, consciousness raising and public involvement; coordination, cooperation and connectivity; funding; land use; mobility options; research and evaluation; asset management.

Each participant was asked to identify the top 3 issues, goals and specific actions of what the department should be doing and how to make the vision a reality. Some (but not limited to) general themes that are related to the issues are a genuine interest in a creation of seamless/multi-modal transportation system; the need to build relationships and partnerships; better coordination and cooperation among transportation providers; importance of equity and fairness.

The Summit Listening Session results indicate 345 people attended, 201 recommendations were obtained, and 76% of the responses referenced safety or mobility. Some of these specific responses related to alleviating congestion, preventing traffic accidents, improve pedestrian safety, preserve roads and bridges, multimodal connectivity of non-motorized, rail and bus transit.

The next steps for the Summit include listening session follow up, action team meetings and reports, quarterly collaboration sessions for action team representatives and providing an update to Michigan on transportation at the end of 2004.

Chairman Wahby asked how much is resource driven.

Kirk replied that action teams are made up of the transportation industry. Teams cannot go to any specific organization, private company or public agency, and tell them that they must do something. There must be collaboration.

Commissioner Awrey asked if they would be influential with the Congressional delegation because that is where we need to get our funding.

Mr. Steudle stated that one of the action teams deals with the issue of funding. Those at the Summit felt that the top priority is finding a way to increase revenues to pay for the transportation system that we need in Michigan.

Approval of the Five-Year Transportation Program, 2004-2008

Mr. Steudle reported on what has been accomplished to date regarding the Five-Year Program. A draft of the program was presented in December 2003. Eleven listening sessions have been conducted throughout the state. It is the departments' intention to deliver the program to the Legislature on January 30, 2004 pending the Commissions' actions. Section 307 of the Budgetary Reporting Requirements state that before February 1 of each year, the department must provide to the Legislature, the state budget office, and the house and senate fiscal agencies its rolling 5-year plan listing by county or by county road commission all highway construction projects for the fiscal year and all expected projects for the ensuing fiscal years.

New elements to the program include the fact that it is a multi-modal program: highways, aeronautics, and public transportation. It includes the 2004 aviation, transit, and rail programs and major projects; 2004-08 highway program and project lists; and revenue projections and investment strategies. The program continues to focus on system preservation and safety. It continues to improve methods, processes, and customer satisfaction; contains continued investment in new construction and road expansion.

MDOT's transportation programs total \$1.77 billion annually (\$223 million on aviation, \$298 million on bus and rail, and an average annual of \$1,245 million on highways).

The strategy for the program involves road and bridge maintenance, with preservation continuing to be the number one priority. The second year of the Preserve First Initiatives include: adding preservation projects, increase safety and enhancement programs, and implementation of the noise wall program.

In the Capacity Improvement/Expansion Program, the department has completed ongoing phases, are continuing with ones that were committed. During July 2003 phases of 17 projects were reinstated (not total of 17 projects). There remain 17 projects still deferred. The criteria of the 34 projects coming back into the program is based upon confidence that proposed investments will meet 2007 condition goals; confidence that investments will sustain preservation goals beyond 2007; and additional federal revenue.

Mr. Steudle asked for questions.

Commissioner Baillod asked Mr. Steudle to comment on the status of the Wixom Road Interchange project that is mentioned on page 105 of the Program draft. He inquired as to what this project brings and the overall priority of moving forward.

Mr. Steudle answered that those projects listed are not according to any certain priority. They are there to indicate those that were deferred. All are good projects that are moving through the program however, the funding is not sufficient at this time to cover them. As money becomes available, it then becomes a prioritization of which piece best fits where the transportation system needs to go for the future. It is a balancing of capacity improvements, preservation, and local access interchanges versus widening of the freeway between interchanges. The department would come back at that time asking for recommendations on approaches and strategies in order to obtain that balance.

Commissioner Garside asked if there were a time frame.

Mr. Steudle replied that it would be whenever there are additional federal revenues.

Commissioner Jackson briefly commented on the 17 projects that are still deferred. He wanted those that are concerned to understand the funding situation as it currently exists.

Mr. Steudle thanked Commissioner Jackson for his comments and further stated that the action teams' initial issue was finding ways to increase both state and federal revenues. They are seeking ways to fund a 21<sup>st</sup> century system that is not based in the 20<sup>th</sup> century distributions and make up.

Mr. Steudle went on to speak of other components of the Five Year Program. The Multi-Modal revenue assumptions on the federal side are that the Omnibus Spending Bill passed by the House includes \$14 billion of FAA discretionary spending. That is an increase of more than \$460 million of fiscal year 2003. On the aviation side that is 95% federal, 5% local match. Ninety-seven percent of the aviation program is directed toward airport improvement programs. These include runways, building, lighting, land acquisitions, etc. The fiscal year 2004 anticipated budgets for bus, marine and railroad programs total \$297,872,900 million.

The Five Year Program listening session results show that 345 people attended, approximately 180 comments at the sessions (some sent by letter, email, or fax). Most of the focus was on the road and bridge program. The need to continue Preserve First was expressed, but there was also a desire to reinstate deferred capacity increase and new road projects—most notably the two are the I-96 at Wixom Road (Oakland County) and I-96 at Latson Road (Livingston County). Other comments expressed were: enhance safety and functionality of the roadway; encourage usage of mass transit; expand freight transportation systems; enhance safety and functionality of non-motorized transportation infrastructure; preserve highway assets.

Next steps involve requesting approval of the 2004-08 Five Year Transportation Program, and meeting the requirement to provide the Five Year Program to the Legislature before February 1, 2004.

Chairman Wahby stated that in the interest of keeping the lines of communication open, the Commission would open the floor to public comment relating to the Five-Year Transportation Program.

Public Comment

Mr. Mike Dornan, City Manager for City of Wixom (Oakland County), gave brief public comment regarding the I-96/Wixom Road Project. People in the community and region have, for several years, referred to this project as the I-96/Beck/Wixom Road Project. It has been viewed as one project. An integral part of the I-96/Beck Road Project is the Wixom Road component. Mr. Dornan stated that to defer/separate the Wixom Road portion of the project would have significant impact on their ability to provide and retain jobs in West Oakland County/Southeastern Michigan, particularly jobs in the metropolitan area. He further stated that he understands the prioritization and methodology used by the department to select projects however would challenge the Commission to take a hard look at the merits of this project to stay connected to the Beck Road Interchange Project.

Mr. Jeff Potter, County Commissioner, District 8, gave brief public comment regarding the I-96/Wixom Road Project. Expressed concerns about the deferral of the Wixom/I-96 project from the current Five Year Program. The community's concerns include issues of safety, loss of potential Right-of-Way commitments, economic development and job retention. He is particularly concerned that the deferral of this project would negatively affect metropolitan Detroit employment in the City of Wixom. Many people feel that the future of the Ford Wixom Assembly Plant is seriously at risk. He asked that the Commission consider reinstating this project to the Five Year Program. (See letter attached).

Mr. Steudle asked for questions from the Commissioners relating to this issue.

Mr. Steudle addressed the public comments that were made. He stated that the Beck and Wixom Interchange, as well as other interchanges, have been viewed as coupled interchanges. When two interchanges are designed, operating and fully completed, they clearly will operate at their best. Other locations have had half of their counterpart interchange deferred as well. Each community in those locations may also say that the economic impact on their community versus another one is equally as strong. None of this is to downplay anything the County Commissioner or City Manager have said. These are true facts and, again, it comes down to prioritizing and funding.

Mr. Steudle asked for approval of the 2004-2008 Five-Year Transportation Program.



Commissioner Jackson reminded those present that at the time the projects were deferred, a discussion was had regarding authorizing \$200 million in bonds to bring some of them back. The issue was focusing on the Preservation Program based upon the Commissions' desires. He went on to state that several of the Commissioners recommended a process to make a comparison between the value of fixing the engineering deficiencies on state trunk highways versus the alternatives of expensive projects that had a high economic value. Further, he reminded them that additional research needs to be done to make those comparisons across those two lines. He stated that the Director assured the Commission that such a study was going to go on before the next five year plan came out, and he hoped that was still true. Commissioner Jackson went on to state that, personally, he is not eager to have the Commission become involved in priority selection. He's delighted that there are people concerned that their project didn't get done because there will be pressure now, on the legislature and others, to get them done.

Mr. Steudle stated that the department is still pursuing a resolution to find a way to quantify the benefits of the two.

Chairman Wahby entertained a motion for approval of the Five-Year Transportation Program. Moved by Commissioner Baillod, with support from Commissioner Jackson, to approve the Five Year Transportation Program. Ms. Lockwood called the roll: all answers were affirmative. Motion carried on a unanimous roll call vote.

Commissioner Jackson commended Ms. Denise Jackson and her team on their superb work in putting this program together.

#### Federal Reauthorization Update – Susan Mortel

Before she began her report, Ms. Mortel assured Commissioner Jackson that the department is pursuing the issue of looking into methodologies for making tradeoff decisions between preservation and capacity increases. The department looks at the adequacy of the tools we have in-house right now, and what we can do in-house without going out to the consultant community. The department is currently working on an RFP. She stated that the Director has asked them to have something available for use within six months.

Ms. Mortel reported that Congress recently passed the Omnibus Appropriations Bill, which is the funding portion of an annual budget cycle process. This Bill included reauthorization of AIR-21 (aviation programs) and is for 2004. On the one hand they have a year's worth of budget, and on the other hand they are still waiting for the actual reauthorization of TEA-21. Aviation: \$14 billion in FAA discretionary spending, bringing an increase of more than \$460 million over the fiscal year 2003 spending levels nationally. Funding is now available for Michigan airport improvements. Highway and Transit: Funds are earmarked for intelligent transportation systems, local highway and bridge projects, federal lands, transit, and job access reverse commute programs.

Further, Ms. Mortel reported that the current extension of TEA-21 expires February 29, 2004. We are trying to encourage Congress to act. The House and Senate are committed to act in February of this year. The department is hopeful for equity in order to bring our share up to 95%, but the House and Senate proposals require new revenue sources to achieve that. There are currently three proposals in the works right now, each having different funding levels:

1. Administration SAFETEA – maintains current highway investment level; decrease in transit funding; inflation outpaces increased funding level; streamlines environmental review process; is consistent with the Five Year Program revenue assumptions;
2. Senate SAFETEA – increases investment level for highways; its likely to receive more transit funds; has more program categories than TEA-21, and less flexibility; additional environmental regulations;
3. House TEA-LU – highest investment level, but the most earmarks/discretionary programs; most program categories, least flexibility; planning and environmental requirements unknown.

Procedurally it may not be possible for them to have the complete Bill, through Congress and complete reauthorization by the end of February. Therefore, it may be necessary for a short term extension; just enough to get the job done.

Michigan will be affected by the extension in that a short term fix does not guarantee a multi-year highway and transit reauthorization to be in place this year, temporary funding keeps the current, inadequate 90.5% rate of return in place, and the transportation industry and economy will be affected next construction season.

Ms. Mortel noted that the department is concentrating on obtaining support for a fully funded six year bill enacted by February 29<sup>th</sup>, equity for Michigan on highway and transit apportionments at a 95% return, increasing funding to address national needs, and providing flexibility to address critical state highway and transit needs. She then asked for questions.

Chairman Wahby stated that reauthorization is the key if we are going to expand programs.

A copy of each presentation is attached.

#### IV. **OVERSIGHT**

##### Commission/State Administrative Board Contracts and Agreements (Exhibit A) – Myron Frierson

Ms. Lockwood stated that Item 1 (2003-0704, Duty Free Americas, Inc.) is withdrawn. Further, Item 11 and 19 are subject to completion of internal review.

Chairman Wahby entertained a motion. Motion was made by Commissioner Awrey, supported by Commissioner Garside to approve Exhibit A with Items 11 and 19 subject to completion of internal review. Motion carried.

Commissioner Jackson stated that on one of the bar-graphs for project lettings that the department would fall about 6 months short of the goal, and asked if there was a reason for that.

Mr. Frierson responded that he believes this is so—in terms of the 90%. He deferred the remainder of the question to Mr. Steudle.

Mr. Steudle stated that several things occurred during the last year. The department initiated Preserve First and moved other projects around. While we did not hit 90% by March, they are coming closely behind. With the substantial shift in the program that occurred, staff reacted remarkably well.

Bid Letting Pre-Approvals (Exhibit A-1) – Myron Frierson

Mr. Frierson reported that since the STC last met there were 3 lettings. There are letting summaries for 2 months due to not having a Commission meeting in the month of December, 2003. During the December letting we had 43 state projects; the low bids that were announced about 7% under the engineers' estimate. Competition was evident. The average number of bidders per project was 4.28. The local projects averaged over 7 bidders per project.

Since the STC did not hold a meeting in December, the department will ask for approval of the January letting. During the January 2004 letting (January 9 and 21) there were approximately 44 state projects; the low bids were about \$78 million, which were about 5% under engineers' estimate. Competition appeared to be evident; there were at least 4 bidders per project.

Mr. Frierson further reported that in terms of comparison of year-to-date figures with the previous year, during fiscal 2003-04 we have let over \$204 million in projects, compared to about \$296 million this time in January 2003. For this fiscal year we are currently estimating about \$703 million in terms of state projects, in comparison to last fiscal year of \$762 million.

For the January letting, it was required that any project with engineers' estimate over \$1 million be submitted electronically. Ninety-one percent of the bids during this letting were submitted in this manner. Seventeen projects had engineers' estimates over \$1 million, and all projects let during that time were received electronically. This appears to be a very beneficial and productive process. It cuts down on bid errors and bid rejections.

Mr. Frierson asked for questions regarding the February letting. None were forthcoming. He then asked for the Commissions' pre-approval of the February letting.

Chairman Wahby entertained a motion. Motion was made by Commissioner Baillo to pre-approve the February letting. Motion supported by Commissioner Jackson and carried on a unanimous voice vote.

Letting Exceptions Agenda (Exhibit A-2) – John Polasek

Commissioner Jackson expressed concern over the language in Item #0401-046 where it states, “The low bid for this item, while higher than the estimate, should be considered reasonable”. He stated that this statement needs to be fixed because it is not logically correct. He further stated that the low bidder was not the low bid on any of the items.

Mr. Polasek agreed and stated that the way they set it up is to look at bid prices for selected work items that were over the engineers’ estimate and those are what are shown in the write-up. In some cases, the second and third low is lower than the actual low bidder. He assured Commissioner Jackson that they are indeed looking at that process.

Mr. Polasek asked the Commission for approval of Exhibit A-2.

Chairman Wahby entertained a motion. Motion was made by Commissioner Baillo to approve Exhibit A-2. Motion supported by Commissioner Awrey and carried on a unanimous voice vote.

Information Items (Exhibit A-3) – Myron Frierson

Mr. Frierson stated that these items are included for information purposes only, and no action is necessary. Four projects are listed; all with one bidder, and one that was over the engineers’ estimate.

Bid Letting Not Pre-Approved (Exhibit A-4) – Myron Frierson

Mr. Frierson stated that this exhibit is for approval of the January 9, 2004 letting, of which Mr. Polasek previously spoke about some of the letting exceptions.

Chairman Wahby asked if there were any questions from the Commission; none were forthcoming.

Motion was made by Commissioner Jackson and supported by Commissioner Garside to accept Exhibit A-4. The motion carried on a unanimous voice vote.

Chairman Wahby took a moment to acknowledge former employees that were present: Phil Kazmierski, Gary Taylor and Glenn Bukoski.

Intercity/High Speed Passenger Rail Policy - Polly Kent

This policy was prompted by legislative activity at the Federal level. The department wants to be in a position to respond if any of the five proposed rail bills move forward. Ms. Kent reminded the Commission that during the November, 2003 meeting, Commissioner Jackson expressed concerns about some of the language in the policy.

Chairman Wahby asked if Gordan Mackay from Indian Trails Motor Coach wanted to make brief public comments regarding this policy before Ms. Kent continued.

Mr. Mackay stated that he would wait until after Ms. Kent spoke, but before the Commission voted.

Ms. Kent stated that in the time the department was making changes to address Commissioner Jackson's concerns, they also began working with other industry partners in order to refine this language. She asked the Commission not to vote on this policy today, but postpone it for another month allowing for more time to continue working with these other industry partners in refining the language. She stated that the policy would be brought back before the Commission during the February 2004 STC meeting.

Chairman Wahby agreed that this would be a good way to address the proposed policy.

Mr. Gordan Mackay, Indian Trails Motor Coach, gave brief public comments regarding the policy. He pointed out that there is no reference to the intercity bus system, which serves more communities in this state than any other. This is the very mode of transportation that makes intercity rail service successful. He further commented that funding is being made available, but no consideration is being given to the private intercity system. This will eventually force them to either abandon their regular schedule service (due to economics), or they will have to come the Commission to ask for, and become, a quasi-government entity—something they would rather not do. Their payroll and other operating expense commitments are in jeopardy. Mr. Mackay noted his approval of delaying the policy for additional communication.

#### IV. **PRESENTATIONS**

##### Asset Management Council Report – Carmine Palombo, Chairman

Mr. Palombo acknowledged other members of the Council that were present. He gave a brief report on the activities of the TAMC. He presented a snap-shot of their year-end report. A copy of their minutes is attached.

He introduced Mr. Gil Chesbro of the Council to give a brief presentation on the process used to collect data for determining which roads are eligible to receive federal aid.

No questions were forthcoming. Mr. Palombo stated that the TAMC would be back before the Commission in February.

#### V. **CORRESPONDENCE**

Letters were received and placed on file from:

1. State Senator Nancy Cassis, 15<sup>th</sup> District
2. State Senator Laura M. Toy, 6<sup>th</sup> District

VI. **PUBLIC COMMENTS**

Mr. Mike Nystrom, Assistant Executive Director of AUC (Michigan's Heavy Construction Association), made brief comments regarding the suspended certification of the AllState Painting and Contracting Company. He presented materials relating to the November 2003 letting (Item #14; Mackinac Bridge Painting project), which shows the engineers' estimate to be approximately \$22 million. He stated that there was a requirement for all bidders to be certified through a national certifying agency (SSPC) in order to bid or even get projects on the plan. The low bidder at \$17.76 million was AllState Painting. At the time of bid, their certification was suspended. It is his contention that this company should not have been allowed to bid. The second low bidder (Liberty Maintenance) was \$50,700.00 (0.28%) higher than the low bid. This company unquestionably had their certification in place at the time of bid.

In the last 2 ½ months MDOT has reversed its decision to reject AllState's bid. He expressed concern that the original decision is not being adhered to. It is his opinion that if we award to AllState Painting, a precedent will be set for contractors in Michigan to bend the rules and still be awarded work in the future with MDOT. He then asked for questions.

Mr. Frierson stated that MDOT has relied on facts and not speculation about what goes on within SSPC. Based upon information the department received initially from the contractor, they accepted at face value, as they did with the other nine contractors. They were informed of the non-certification after the bid letting, contacted the certifying agency and were told initially that certification was in place. Subsequently, the certifying agency reported that the certification was invalid, and MDOT rejected the bid. According to the construction specification, they are allowed an appeal. Their appeal documentation at the time did not contain any supporting information from SSPC; therefore their bid was rejected again. This allowed them to appeal to the Commission. In this documentation they referred to their issues with the certifying agency. Mr. Frierson sent them a letter stating that we, as a department, can not get involved with any issue between the two. In the letter he stated the Department needed documentation from SSPC supporting the contractor's position or their appeal would be forward to the Commission. On January 22, 2004 a letter was received from SSPC which stated that the contractor was, in fact, certified prior to the letting. Based upon this information, MDOT felt the contractor met the conditions of the bid and moved to award the contract.

Chairman Wahby asked if there were any questions for Mr. Frierson; none were forthcoming. He then asked for any other public comments to come before the Commission; none were forthcoming.

Chairman Wahby congratulated the MDOT staff and the administration for all of their hard work during 2003 and the upcoming challenges that will present themselves during 2004. He especially wanted to compliment Greg Johnson, Metro Region Engineer, for his exceptional attitude and public relations commitment.

Ms. Lockwood informed the public that the Five Year Plan will be available on the MDOT website within a few days. She further stated that all the Commissioners have been provided a copy of the High Impact study from all of the regions.

Chairman Wahby asked if any Commission members had comments; none were forthcoming.

### **ADJOURNMENT**

There being no further business to come before the Commission, the Chairman declared the meeting adjourned at 11:12a.m.

The next full meeting of the Michigan State Transportation Commission will be held in Lansing, Michigan, on February 26, 2004, commencing at the hour of 9:00 a.m.

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Patricia A. Lockwood  
Commission Advisor